



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2022-0482; FRL-9906-01-R7]

Air Plan Approval; Missouri; General Conformity Rescission

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Missouri State Implementation Plan (SIP) relating to General Conformity received on April 15, 2022. In its submission, Missouri requests EPA approval of rescission of the Missouri General Conformity Rule from the Missouri SIP. General Conformity ensures actions taken by federal agencies, such as airport construction, do not interfere with a state's plans to attain and maintain national standards for air quality. After rescission of the state's General Conformity Rule, federal agency actions will be subject to the Federal General Conformity Rule.

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-R07-OAR-2022-0482 to <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on

sending comments and additional information on the rulemaking process, see the "Written Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jed D. Wolkins, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7588; email address: wolkins.jed@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to the EPA.

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I. Written Comments

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2022-0482, at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to

make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. What is Being Addressed in this Document?

The EPA is proposing to approve the rescission of Missouri's General Conformity Rule, 10 CSR 10-6.300 from Missouri's SIP. General Conformity ensures actions taken by federal agencies, such as airport construction, do not interfere with a state's plans to attain and maintain national standards for air quality. After rescission of the state's General Conformity Rule, federal agency actions will be subject to the Federal General Conformity Rule.

III. What is General Conformity?

The purpose of the General Conformity rule is to ensure that federal activities do not cause or contribute to new violations of National Ambient Air Quality Standards (NAAQS), federal actions do not worsen existing violations of the NAAQS, and attainment of the NAAQS is not delayed. General Conformity covers most aspects of federally funded or approved actions not covered by the Transportation Conformity program. In November 1993, the EPA promulgated two sets of regulations to implement section 176(c) of the Clean Air Act (CAA). First, on November

24, 1993, the EPA promulgated the Transportation Conformity regulations, which apply to highways and mass transit. These regulations establish the criteria and procedures for determining whether transportation plans, programs, and projects funded under title 23 U.S.C. or the Federal Transit Act conform with the State Implementation Plan (SIP) (58 FR 62188). Then, on November 30, 1993, the EPA promulgated a second set of regulations, known as the General Conformity regulations, which apply to all other federal actions. These regulations ensured that other federal actions also conformed to the SIPs (58 FR 63214).

General Conformity is based on evaluating the annual net increase in emissions caused by the proposed federal activity. The regulations require a federal agency proposing certain general federal activities to ensure that any increase in emissions of harmful air pollutants conform to the purpose of the applicable implementation plan. This includes projecting estimates of the direct and indirect emissions that are likely to occur.

General conformity covers a wide variety of federal activities. A federal activity is generally an action that requires either federal funding and/or federal approval. Even if a project is not federally-funded, there may be federal approvals such as permits that are needed.

The General Conformity Regulations do not apply to every area. Rather, the requirements only apply in nonattainment areas

and attainment areas with maintenance plans, maintenance areas. A nonattainment area is an area designated by the EPA as not meeting a NAAQS. A maintenance area is an area that was once designated as nonattainment but has been redesignated by the EPA to attainment based on meeting the NAAQS and having an approved plan to maintain the NAAQS. The EPA, in partnership with the states or tribes, is responsible for the designation of areas as nonattainment and redesignating them once they achieve the NAAQS.

For more information on General Conformity, please visit www.epa.gov/general-conformity.

IV. Have the Requirements for Approval of a SIP Revision Been Met?

Missouri's General Conformity Rule, 10 CSR 10-6.300, titled "Conformity of General Federal Actions to State Implementation Plans", was incorporated into the SIP consistent with section 176(c) of the CAA, as amended (42 U.S.C. 7506(c)), and regulations located in 40 CFR part 93, subpart B, that directed states to include in their SIPs provisions requiring General Conformity of federal actions to the applicable implementation plan. In 2005, Congress passed the "Safe, Flexible, Efficient Transportation Equity Act: A Legacy for Users" (SAFETEA-LU). Section 6011 of SAFETEA-LU amended section 176(c) of the CAA to remove the requirement for states to adopt a General Conformity rule into the SIP. In turn, EPA amended the federal General Conformity rule at 40 CFR part 51, subpart W, to make state

adoption of a General Conformity rule into the SIP optional rather than mandatory (75 FR 17258). 10 CSR 10-6.300 duplicates federal regulations. After rescission of the state's General Conformity Rule, federal agency actions will be subject to the Federal General Conformity Rule.

CAA section 110(1), 42 U.S.C. 7410(1), states that the Administrator cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement. The federal General Conformity rule contains the same requirements as the state's General Conformity rule. Therefore, the same requirements will apply after the state's rule is rescinded and there will be no associated emissions increase or adverse impact to air quality. Therefore, the EPA is proposing that this change will not interfere with: any area's ability to maintain any NAAQS, making reasonable progress towards natural visibility in Missouri's Class I areas nor any Class I area in another state Missouri impacts, or any other applicable requirement.

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from August 16, 2021 to October 7, 2021 and received no comment. In addition, as explained above, the revision meets the substantive SIP requirements of the CAA,

including section 110 and implementing regulations.

V. What Action is the EPA Taking?

The EPA is proposing to approve a SIP revision submitted by the State of Missouri on April 15, 2021, rescinding the State General Conformity Rule, 10 CSR 10-6.300. EPA is proposing to determine that this revision would not interfere with attainment or maintenance of any NAAQS or with any other CAA requirement because the same requirements exist in federal law. We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

VI. Environmental Justice Concerns

This action proposes to approve the rescission of the state's General Conformity rule. The state's rule duplicates the federal General Conformity rule. Once approved all federal actions that would have been subject to the state rule will be subject to the same requirements in the federal rule. For this reason, this proposed action will not result in disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples.

VII. Incorporation by Reference

In this document, the EPA is proposing to amend regulatory text that includes incorporation by reference. As described in Section II of this preamble and set forth below in the proposed amendments to 40 CFR part 52, the EPA is proposing to remove 10

CSR 10-6.300 of the EPA-Approved Missouri Regulations from the Missouri State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

VIII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 7, 2022.

Meghan A. McCollister,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart AA-Missouri

§52.1320 [Amended]

2. In §52.1320, the table in paragraph (c) is amended by removing the entry "10-6.300" under the heading "Chapter 6 - Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri".

3. In §52.1323, paragraphs (h) and (j) are revised to read as follows:

§52.1323 Approval status.

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(h) Missouri rule 10 CSR 10-6.300 was rescinded on **[date 30 days after date of publication of final rule in the Federal Register]**.

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(j) Missouri rule 10 CSR 10-6.300 was rescinded on **[date 30 days after date of publication of final rule in the Federal Register]**.

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